

Filed9-7-11

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

Clerk, U. S. District Court  
Western District of Texas

By

OB Deputy

UNITED STATES OF AMERICA §  
v. § No. 1:11-CR-360-SS  
DOMINGO MENDIETA (8) § ECF  
§

**UNITED STATES' FACTUAL BASIS AT REARRAIGNMENT**

The United States of America files the government's factual summary for purposes of the Defendant's rearraignment and guilty plea.

If this case were called to trial on the merits, the government is prepared to prove the following beyond a reasonable doubt:

Between April 1, 2009, and July 14, 2011, Domingo Mendieta conspired with Ruben Flores, Michael Morin, Patrick Cruz, Daniel Gonzales, Nickolas Estrada, Edward Zuniga, Michael Martinez, Ernest Lopez, Arnulfo Perez-Torres, Juan Manuel Pierce, David Romo, Luis Salazar, David Samarripa, David Torres, Jose Placencia, and others to possess with intent to distribute one kilogram or more of heroin. Mendieta was a member of the drug trafficking organization headed by Texas Mexican Mafia (TMM) Captain Ruben Flores.

During the course of the conspiracy, FBI officers were involved in wire intercepts targeting various members of the Flores drug trafficking organization. Mendieta was intercepted discussing the distribution of drugs and the collection of the proceeds from those drug sales with different members of the conspiracy. Specifically, on May 5, 2011, Morin spoke with Mendieta in a recorded telephone call and told him that the TMM was having an important organizational meeting to discuss not only the drug trafficking business, but what to do in terms of the behavior

of one of the ranking members, David Torres. Morin told Mendieta that Flores wanted Mendieta to attend because Mendieta "was the treasurer." They later discussed the fact that Torres owed the TMM \$17,000 for drugs that had been distributed to Torres for resale.

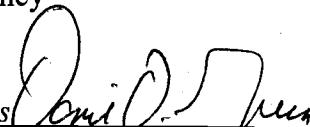
On July 5, 2011, in an intercepted telephone call with Morin, Mendieta asked if Morin knew anyone selling cocaine. Mendieta explained that he had a customer who wanted to buy two ounces of cocaine. The cocaine needed to be high quality because the customers were interested in converting it to crack cocaine. When Morin said he did not have any cocaine, Mendieta indicated he would contact Samarripa for the cocaine.

During the execution of the search and arrest warrants in this case, officers seized approximately one kilogram of heroin from the home of Ruben Flores. This heroin was to be distributed among the members of the conspiracy so that they could sell it to different customers. Agents seized from Mendieta's house some marijuana and items used to sale drugs (e.g. a scale). They also seized financial paperwork confirming that Mendieta served as the "treasurer" for the TMM. Finally, officers seized a pistol from the residence. This pistol belonged to Mendieta.

Based on his participation in the drug trafficking organization, Domingo Mendieta admits that he is responsible for possessing with intent to distribute at least one kilogram of heroin as alleged in the indictment.

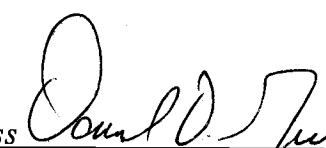
Respectfully submitted,

JOHN E. MURPHY  
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*/s Daniel D. Guess*   
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CERTIFICATE OF SERVICE

*September 7*  
I hereby certify that on August 29, 2011, a true and correct copy of this instrument was filed with the District Clerk via the WDTX CM/ECF system, and the Defendant's attorney of record, Todd Nickle, will have access to it.

*/s Daniel D. Guess*   
DANIEL D. GUESS  
Assistant United States Attorney